IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 16420 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MAHESH FATHESINGH LODHA

Versus

OFFICIAL LIQUIDATOR OF GUJARATSTATE TEXTILE CORPN. LTD

Appearance:

1. Special Civil Application No. 16420 of 2003

MR RD DAVE for Petitioner No. 1

RULE SERVED BY DS for Respondent No. 1,3

GOVERNMENT PLEADER for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 24/02/2004

ORAL JUDGEMENT

1. With the consent of the parties, the main matter

itself is taken up for final hearing today.

2. The present petition is preferred by the petitioner challenging the legality and validity of the order dated 19-5-2003 passed by the Industrial Court, Ahmedabad in Misc. Application (IC) No.3/2003 whereby delay of seven days is not condoned by the Industrial Court and the said order of refusing to condone the delay is under challenge in this petition.

3. Having heard Mr.Dave, learned Counsel for the petitioner and the O.L., who is representing Respondents No.1 and 3, it appears that the limitation period was to expire on 28-2-2003 and the appeal has been preferred on 7-3-2003 before the Industrial Court, Ahmedabad. Mr.Dave, learned Counsel appearing for the petitioner submitted that for the ground made out in the application for condonation of delay the Industrial Court ought not to have dismissed the application for condonation of delay. On behalf of respondents No.1 and 3, mainly contesting respondents, no serious objections are raised on the question of condonation of delay, since there was a delay of only seven days.

4. It appears that the Industrial Tribunal was carried by the circumstances prior to the decision of the Labour Court that there was a delay of ten years in the litigation before the Labour Court. As such from the perusal of the order passed by the Tribunal, it appears that the Tribunal has taken too technical view and more particularly when it was delay of seven days. I find it proper to leave the matter at that stage without observing further, since on behalf of respondents No.1 and 3 also no serious objections are raised for condonation of delay. Suffice it to say that considering the facts and circumstances of the case, the Industrial Court ought to have condoned the delay of seven days in preferring the appeal against the decision of the Labour Court dated 2-1-2003 in T-Application No.114/1998.

5. In view of the above, the order dated 19-5-2003 passed by the Industrial Court, Ahmedabad in Misc. Application No.3/2003 below application for condonation of delay is quashed and set aside and the delay of seven days in preferring the appeal against the decision of the Labour Court dated 2-1-2003 in T-Application No.114/1998 is hereby condoned and as a consequence of this order, the Tribunal shall now take up the appeal as having been filed within the period of limitation and shall pass the order in accordance with law.

6. The petition is allowed to the aforesaid extent. Rule made absolute accordingly. Considering the facts and circumstances of the case, no cost.

24-2-2004 (Jayant Patel, J.)

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